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COMMUNITY  
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March 28, 1997

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FCC MAIL ROOM

Mr. William F. Caton, Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

Re: Ex Parte Presentation in  
MM Dk No. 87-268 (Digital Television)

Dear Mr. Caton:

In accordance with the Commission's ex parte rule, 47 C.F.R. Sec. 1.1206, an original and a copy of this letter are being filed in CC Docket No. 96-45 as notification of an ex parte meeting on Wednesday, March 26, 1997 between Jeffrey Hops, Director of Government Relations for the Alliance for Community Media, and David R. Siddall, Legal Advisor to Commissioner Susan Ness. The handout distributed at this meeting is attached.

The Alliance expressed its concern that digital television licenses be issued by the Commission only after licensees have demonstrated that they will meet public interest obligations and adequately compensate the United States government for their use of the government's electromagnetic spectrum.

Please contact me if you have any further questions regarding this matter.

Respectfully Submitted,

Jeffrey S. Hops, Esq.  
Director, Government Relations  
Alliance for Community Media

cc: David R. Siddall, Esq.

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## DIGITAL TELEVISION TALKING POINTS

- The National Association of Broadcasters ("NAB") claims that the Commission is simply "loaning" the industry an additional 6 Mhz channel, while backing away from a specific date by which analog spectrum must be returned. NAB's "loan analogy" simply does not work. A "loan" with no interest charge and no payback date is not a loan, but a grant.
- The broadcasters have already conceded that the one-sixth of the additional spectrum used for free over the air broadcast television will not produce a substantially higher quality signal, except for viewers in poor-reception areas. They have not made any commitment to use the additional capacity to offer additional free over-the-air programming. And they are asking the American public to throw away their current televisions and buy expensive new ones (or at minimum, converter boxes) in order to receive the same thing they are receiving already.
- The industry wants to get into the lucrative "ancillary and supplementary services" market -- the same services for which a host of other companies had to bid at auction to get an opportunity to compete.
- The desire to enter the data and information services market seems the only logical explanation of why the broadcasters have been pushing so vehemently for the additional ATV spectrum licenses to be issued as soon as possible, even though few broadcasters have moved to purchase or install DTV technology. Issuance of a license should at least be conditioned on some commitment to construction of DTV facilities by date certain.
- The 1996 Act requires the Commission to impose fees on broadcasters that offer supplementary and ancillary services. These fees must reflect the amount that would have been recovered in an auction, had an auction been held.
- The FCC must assess a fee on broadcasters that, as the law clearly states, "equals but does not exceed the amount that would have been recovered had such services been licensed [under auction]." 47 U.S.C. Sec. 336(e)(2)(B). The language of that section is mandatory.
- The only way broadcasters can avoid this auction-equivalent fee is by offering multiple free over the air digital channels. "Multiplexing" their signal into numerous free TV channels would allow broadcasters to use their additional spectrum without having to pay anything other than the nominal licensing fee. We continue to believe that this spectrum should be subject to open auction, and include new entrants.
- Should the broadcasters get into ancillary and supplementary services, the FCC should require that some of this "auction equivalent" payment can be made in-kind by setting aside a portion of the new spectrum allocation for use by schools, libraries, museums, local and state governments, nonprofit institutions, universities, and other non-commercial entities that have been generally excluded from the broadcast media. Such a set-aside could help distance-learning programs, improve civic discourse, and allow a host of worthy organizations that do their good works unseen to stand up and be recognized.